No. 84-648 (4)

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In The

Supreme Court of the United States

October Term, 1984

SEDIMA, S.P.R.L.,

Petitioner,

vs.

IMREX CO., INC., GIDON ARMON and JACOB ARMON,

Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Second Circuit

JOINT APPENDIX

FRANKLYN H. SNITOW
WILLIAM H. PAULEY, III
Counsel of Record
SNITOW & PAULEY
415 Madison Avenue
New York, New York 10017
(212) 486-9080
Attorneys for Petitioner

RICHARD EISENBERG
Counsel of Record
SHAW, GOLDMAN, LICITRA,
LEVINE & WEINBERG, P.C.
1010 Franklin Avenue
Garden City, New York 11530
(516) 742-0610
Attorneys for Respondents

Petition for *Certiorari* Filed October 19, 1984
***Certiorari* Granted January 14, 1985**

3 vols

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RELEVANT DOCKET ENTRIES

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Civil Action No. 83 Civ. 2161 (ILG)

7/23/82	Complaint filed. Summons issued. em(1)
9/8/82	By SIFTONJ-Stip dtd 8-19-82 extending defts time to answer to 9-10-82 filed. mg(3)
10/7/82	Plaintiff's Reply, filed. gp(4)
5/31/83	Plaintiff's Notice of Motion returnable 06.17.83 at 9:30 A.M. for an order granting plaintiff's motion for leave to amend complaint, etc., filed together with Affidavit of Franklyn H. Snitow. gp(19)
5/31/83	Sedima's Memorandum of Points and authorities in support its motion to amend its complaint and add a party defendant, etc., filed. gp(20)
6/16/83	By Glasser, J. — Stipulation and Order that plaintiff's amended complaint is deemed served and amended on 06-17-83, filed. gp(21)
7/21/83	Deft's Notice of Motion ret. 9/16/83 at 9:30 AM, for an Order pursuant to FRCP 12(b), dismissing so much of the Amended Complaint herein as purports to state a claim under 18 USC 1961, *et seq*, filed. EC(23)

Relevant Docket Entries

7/21/83	Deft's Memorandum of Law in Support of Motion to Dismiss the Amended Complaint, filed. EC(24)
9/9/83	Plaintiff's Amended Complaint, filed. EC(28)
9/13/83	Affidavit of Franklyn H. Snitow in Opposition to the defendants' motion to dismiss the Ninth Count of the Amended Complaint, filed. gp(30)
9/13/83	Plaintiff's Memorandum of points and authorities in opposition to defendants' motion to dismiss, filed. gp(31)
9/14/83	Plaintiff's Memorandum of Points and Authorities in Opposition to Defts' Motion to Dismiss, filed. EC(32)
10/13/83	Defts' Reply Memorandum of Law, filed. EC(35)
10/4/83	Before Glasser, J. — Case Called. Counsel for all sides present. Motion for an order dismissing amended complaint argued. Decision reserved. Deft. requests adjdment of trial date of 01/09/84. Application denied. gp(--)
10/27/83	Stenographer's transcript dtd 10/14/83 at 9:30 AM, filed. EC(37)
11/16/83	By Glasser, J., Memo & Order dtd 11/14/83, that pursuant to Rule 12(b)(6) FRCP, those counts in plaintiff's complaint that allege violations of

Relevant Docket Entries

	RICO are dismissed, filed. See M&O for details. Copies mailed.. EC(46)
11/22/83	Letter dated 11/18/83 to Judge Glasser from William H. Pauley, III in re: requesting that certification should be granted, etc., filed. gp(49)
11/22/83	By Glasser, J. — Memorandum and Order dated 11/18/83 that dismissal be entered as a final judgment, filed. Parties informed. gp(50)
11/23/83	*** NOTICE OF APPEAL (pltff-appellant) from orders entered 11/16 & 11/22/83, filed with receipt #53804 for C of A docketing fee. C of A notified. Certificate of service attached. vw
12/2/83	Clerk's Judgment dtd 12/1/83, that pursuant to Rule 54(b) FRCP there being no just reason to delay the appeal from the Order dtd 11/14/83 dismissing plaintiff's RICO claims, the dismissal is entered as final judgment. Copies mailed. EC

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 83-7965

7/25/84	Judgment affirmed by published signed opinion (JLO)
7/25/84	Cardamone, CJ, dissenting in separate opinion filed.

Relevant Docket Entries

7/25/84	Judgment filed.
8/7/84	Appellees Imrex Co. et al itemized and verified bill of costs W/pfs recd.
8/14/84	Appellees statement of costs filed.
8/15/84	Mandate (Opinion, judgment & statement of costs) issued.
10/22/84	Notice of filing of petition for writ of certiorari filed (SC#84-648)
1/14/85	Certified copy of order granting the petition for a writ of Certiorari filed.
2/25/85	Original proceedings and District Court record transmitted to the Supreme Court.

NOTICE OF MOTION FOR ORDER TO DISMISS THE AMENDED COMPLAINT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

82 Civ. 2161 (ILG)

SEDIMA, S.P.R.L.,

Plaintiff

- against -

IMREX COMPANY, INC., GIDON ARMON and JACK ARMON,

Defendants.

PLEASE TAKE NOTICE, that defendants will move this Court, before the Hon. I. LEO GLASSER, at the Courthouse, 225 Cadman Plaza East, Brooklyn, New York, on the 22nd day of July, 1983, at 9:30 in the forenoon or as soon thereafter as counsel can be heard, for an Order, pursuant to FRCP 12(b), dismissing so much of the Amended Complaint herein as purports to state a claim under 18 USC §1961 *et. seq.*

Dated: Garden City, New York
July 7, 1983

Yours, etc.

SHAW, GOLDMAN, LICITRA,
LEVINE & WEINBERG, P.C.
Attorneys for Defendants

Notice of Motion

BY: Richard Eisenberg
A Member of the Firm
1010 Franklin Avenue
Garden City, New York 11530

TO:

ORENSTEIN, SNITOW
& SUTAK, ESQS.
Attorneys for Plaintiff
750 Third Avenue
New York, New York

AMENDED COMPLAINT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

82 CIV. 2161 (ILG)

SEDIMA S.P.R.L.,

Plaintiff,

against

IMREX COMPANY, INC., GIDON ARMON, and JACOB ARMON,

Defendants.

JURY TRIAL DEMANDED

Plaintiff, SEDIMA S.P.R.L., by its attorneys, Orenstein Snitow & Sutak, P.C., for its Amended Complaint herein alleges:

JURISDICTION

1. At all times herein, plaintiff SEDIMA S.P.R.L. ("SEDIMA"), was and still is a corporation organized under the laws of Belgium, having its principal place of business at Avenue Eugene Ysaye 33, Brussels, Belgium.

2. Upon information and belief, at all times herein, defendant IMREX COMPANY, INC. ("IMREX"), was and still is a corporation organized under the laws of the State of New York, having its principal place of business in the County of Nassau, State of New York.

3. Upon information and belief, at all times herein, defendant GIDON ARMON was and still is a resident of the County of Nassau, State of New York.

4. Upon information and belief, at all times herein, defendant JACOB ARMON was and still is a resident of the County of Nassau, State of New York.

5. The amount in controversy in this matter exceeds the sum of TEN THOUSAND DOLLARS ($10,000.00), exclusive of interest and costs.

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1332 (diversity jurisdiction) and 28 U.S.C. §1331(a) and 18 U.S.C. §1961 *et seq.* (federal question jurisdiction).

7. Venue is proper in this District pursuant to 28 U.S.C. §1391(a).

FIRST COUNT AGAINST IMREX

8. SEDIMA is engaged in the business of importing and exporting electronic, mechanical and hydraulic components manufactured in the United States.

9. Upon information and belief, IMREX is engaged in the business of exporting aircraft and aircraft-related electronic component parts.

10. Upon information and belief, during the period described herein, JACOB ARMON was an officer and employee of IMREX.

11. Upon information and belief, during the period described herein, GIDON ARMON was an officer and employee of IMREX.

12. In or about June 1979, SEDIMA and IMREX entered into an agreement of joint adventure (the "joint adventure") wherein SEDIMA and IMREX agreed that SEDIMA, on behalf of the joint adventure, would secure certain orders for electronic component parts from Ataliers de Constructions Electriques Charleroi ("A.C.E.C."), a businss enterprise in Belgium, under A.C.E.C.'s "Belhip" and "P.I.P." programs.

13. It was further agreed by SEDIMA and IMREX, as part of said agreement of joint adventure, that IMREX would obtain the electronic component parts in the United States and cause them to be shipped to Europe pursuant to orders secured by SEDIMA.

14. Under the terms of the joint adventure, SEDIMA and IMREX agreed to equally divide all monies realized from the sale of said electronic component parts less the purchase prices, attendant costs, and shipping and financing charges of the electronic component parts.

15. SEDIMA and IMREX agreed to contribute their respective property, financial resources, efforts, skill and knowledge towards securing the objectives of the joint adventure.

16. SEDIMA and IMREX agreed to equally share any profits, costs and/or losses which would result from carrying out the terms of the joint adventure.

17. From about June 1979 through about August 1982, pursuant to the agreement of joint adventure, SEDIMA caused orders in the amount of approximately EIGHT MILLION FIVE HUNDRED THOUSAND ($8,500,000) DOLLARS to be placed through IMREX.

18. IMREX, JACOB ARMON and GIDON ARMON, pursuant to the agreement of joint adventure, from time to time represented to SEDIMA, in writing and/or orally, the purchase prices, attendant costs, and shipping and financing charges of the electronic component parts purchased or to be purchased.

19. IMREX, JACOB ARMON and GIDON ARMON fraudulently prepared or caused to be prepared purchase orders, invoices, and credit memoranda for SEDIMA that they knew falsely overstated the purchase prices, attendant costs, and shipping and financing charges of the electronic component parts purchased or to be purchased on behalf of the joint adventure.

20. In reliance upon such representations and pursuant to the terms of the agreement of joint adventure, from about June 1979 through about August 1982, IMREX received monies belonging to the joint adventure for the purposes of paying for, or compensating IMREX for the alleged previous payment of the claimed purchase price of the electronic component parts.

21. In reliance upon said representations and pursuant to the terms of the agreement of joint adventure from about June 1979 to about August 1982, IMREX has received monies belonging to the joint adventure for the purposes of paying for, or compensating IMREX for the alleged previous payment of the claimed attendant costs, and shipping and financing charges of the electronic component parts.

22. In violation of its fiduciary and contractual obligations to SEDIMA as co-adventurer, IMREX knowingly and willfully misrepresented the purchase prices, attendant costs, and shipping and finance charges of said electronic component parts in that:

(a) IMREX, JACOB ARMON and GIDON ARMON caused the following credit memoranda to be issued to SEDIMA which intentionally misrepresented the amount of profit to which SEDIMA was entitled.:

DATE	CREDIT MEMO #	MISSTATED AMOUNT OF PROFIT
August 11, 1980	664	$30,464.30
September 19, 1980	674	42,875.70
October 17, 1980	681	26,406.40
December 11, 1980	701	19,534.05
April 7, 1981	736	18,058.00
April 27, 1981	751	8,772.99
May 29, 1981	757	14,265.35

These intentional misrepresentations by IMREX, JACOB ARMON and GIDON ARMON damaged SEDIMA in the amount of at least TWENTY FIVE THOUSAND FOUR HUNDRED SEVENTY-ONE and 67/100 ($25,471.67) DOLLARS.

(b) On numerous occasions during the course of the joint adventure, IMREX, JACOB ARMON and GIDON ARMON caused fraudulent purchase orders to be published and sent to SEDIMA which overstated the cost of the electronic component parts that were purchased on behalf of the joint adventure by a sum not yet determined but believed to exceed TWO HUNDRED FIFTY THOUSAND ($250,000) DOLLARS.

(c) On numerous occasions, IMREX, JACOB ARMON and GIDON ARMON caused fraudulent purchase orders and invoices to be sent to SEDIMA that falsely set forth the costs attendant to the purchase of electronic component parts on behalf of the joint adventure, including but not limited to the lot test

charges, the "S.U.C." charges and the "PMS" charges in an amount as yet undetermined, but believed to exceed TEN THOUSAND ($10,000) DOLLARS.

(d) On numerous occasions, IMREX, JACOB ARMON and GIDON ARMON caused fraudulent purchase orders to be published and sent to SEDIMA that falsely set forth the terms of payment required by the vendor or manufacturer, thereby unjustly enriching IMREX and damaging SEDIMA in an amount as yet undetermined.

(e) IMREX, JACOB ARMON and GIDON ARMON knowingly misrepresented the amount of pre-shipment interest to be charged SEDIMA and further knowingly failed to credit SEDIMA for interest received on monies paid to IMREX, and thereby damaged SEDIMA in an amount as yet undetermined, but not less than TWELVE THOUSAND FIVE HUNDRED ($12,500) DOLLARS.

(f) As a result of IMREX's, GIDON ARMON's and JACOB ARMON's fraudulent misrepresentations and overstatements, as described herein, IMREX, GIDON ARMON and JACOB ARMON also fraudulently caused the publication and delivery of fraudulent credit memoranda to SEDIMA which overstated the "cost of material" by an amount undetermined but believed to exceed TWO HUNDRED SEVENTY THOUSAND ($270,000) DOLLARS.

(g) IMREX, JACOB ARMON and GIDON ARMON engaged in a systematic and regular course of conduct in publishing and sending false and fraudulent purchase orders, invoices and credit memoranda to SEDIMA, whereby IMREX and JACOB ARMON and GIDON ARMON wilfully and knowingly overstated

and misrepresented the purchase prices, attendant costs, and shipping and financing charges of the electronic component parts.

23. By reason of IMREX's breach of its agreement of joint adventure, SEDIMA has been damaged in an amount as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

SECOND COUNT AGAINST IMREX

24. SEDIMA repeats and realleges each and every allegation contained in paragraphs "1" through "22" as if set forth in full here.

25. By reason of the agreement of joint adventure entered into by SEDIMA and IMREX, IMREX owed a fiduciary obligation to SEDIMA as co-adventurer.

26. By reason of the fiduciary obligation which IMREX owed to SEDIMA, IMREX was and is obligated to fully, frankly and truthfully account to SEDIMA for all transactions on behalf of the joint adventure, including but not limited to, the purchase prices, attendant costs, and shipping and financing charges of the electronic component parts as well as for all profits and losses of the joint adventure.

27. IMREX has never truthfully accounted for the money that it wrongfully received and retained under said agreement, nor has IMREX paid over to SEDIMA the monies that it owes SEDIMA under the agreement.

28. SEDIMA has duly performed all of the terms and conditions of its agreement of joint adventure with IMREX.

29. SEDIMA has been greatly injured by IMREX's breach of its fiduciary duties and SEDIMA has no adequate remedy at law.

30. As a result of IMREX's breach of its fiduciary obligations to SEDIMA, IMREX has wrongfully collected and retained large sums of money, the total amount of which is as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

THIRD COUNT AGAINST IMREX, JACOB ARMON AND GIDON ARMON

31. SEDIMA repeats and realleges each and every allegation set forth in paragraphs '1" through '22" and paragraphs "25" through "29" as if set forth in full here.

32. From about June 1979 to about August 1982, IMREX, JACOB ARMON and GIDON ARMON, pursuant to the terms of the agreement of joint adventure, sent and/or caused to be sent to SEDIMA copies of purchase orders, invoices, and credit memoranda purportedly reflecting the purchase prices, attendant costs, and shipping and financing charges of electronic component parts purchased and to be purchased by and on behalf of the joint adventure.

33. From about June 1979 to about August 1982, IMREX, JACOB ARMON and GIDON ARMON prepared and/or caused to be prepared false and fraudulent purchase orders, invoices and credit memoranda by overstating the purchase prices, and/or attendant costs, and/or shipping and finance charges of the electronic component parts, as well as misrepresenting the terms of payment.

34. Those misrepresentations were made by IMREX, JACOB ARMON and GIDON ARMON for the purpose and with the intent of deceiving and defrauding SEDIMA and of inducing SEDIMA, in reliance thereon, to transfer moneys to IMREX to which IMREX was not lawfully entitled under the agreement of joint adventure.

35. SEDIMA relied on the misrepresentations made by IMREX, JACOB ARMON and GIDON ARMON and thereby transferred and allowed IMREX to retain moneys to which IMREX was not entitled under the agreement of joint adventure.

36. By their conduct, IMREX, JACOB ARMON and GIDON ARMON defrauded and deceived SEDIMA and caused SEDIMA to transfer monies to IMREX, thereby allowing IMREX to be unjustly enriched at the expense of SEDIMA.

37. By reason of the foregoing, SEDIMA has been damaged in the sum of at least ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

FOURTH COUNT AGAINST IMREX

38. SEDIMA repeats and realleges each and every allegation contained in paragraphs "1" through "22", "25" through "29" and "32" through "36" as if set forth in full here.

39. IMREX has never rendered to SEDIMA a true and correct account of the state of the business and of the pro- fits which should have been realized by the joint adventure.

40. SEDIMA can show that it was entitled to receive more than it received from IMREX by at least the sum of ONE

HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

41. By reason of the foregoing, the parties cannot be restored to their respective positions.

42. As a result of the fraud and/or material breaches of the agreement of joint adventure committed against SEDIMA by IMREX, JACOB ARMON and GIDON ARMON, SEDIMA is entitled to rescind the agreement of joint adventure and to sue in quasi-contract for quantum meruit.

43. As a result of the fraud and material breaches of the contract of joint adventure by IMREX, IMREX has been unjustly enriched at SEDIMA's expense in an amount as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

44. Accordingly, IMREX is liable to SEDIMA in quasi-contract in an amount, as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

FIFTH COUNT AGAINST IMREX

45. SEDIMA repeats and realleges each and every allegation set forth in paragraphs "1" through "22", "25" through "29" and "32" through "36" as if set forth in full here.

46. By reason of the agreement of joint adventure and even based upon the financial information that IMREX, JACOB ARMON and GIDON ARMON supplied to SEDIMA in 1981, IMREX owes SEDIMA THIRTY FIVE THOUSAND ($35,000.00) DOLLARS.

47. SEDIMA has duly demanded payment of the THIRTY FIVE THOUSAND ($35,000.00) DOLLARS but IMREX has refused to make any payment to SEDIMA.

48. By reason of the foregoing, IMREX is liable to SEDIMA for breaching its agreement of joint adventure in the amount of THIRTY FIVE THOUSAND ($35,000.00) DOLLARS.

SIXTH COUNT AGAINST IMREX

50. SEDIMA repeats and realleges each and every allegation set forth in paragraphs "1" through "22", "25" through "29", and "32" through "36" as if set forth in full here.

50. By reason of the foregoing, IMREX has unlawfully converted to its own use an amount, as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

SEVENTH COUNT AGAINST IMREX

51. SEDIMA repeats and realleges each and every allegation set forth in paragraphs "1" through "22", "25" through "29", and "32" through "36" as if set forth in full here.

52. By reason of the foreging, IMREX is liable to SEDIMA for money had and received in an amount, as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

EIGHTH COUNT AGAINST IMREX

53. SEDIMA repeats and realleges each and every allegation set forth in paragraphs "1" through "22", "25" through "29", and "32" through "36" as if set forth in full here.

54. By reason of the foregoing, IMREX holds an amount, as yet to be determined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS as constructive trustee and bailee for SEDIMA.

NINTH COUNT AGAINST IMREX, JACOB ARMON AND GIDON ARMON

55. Plaintiff repeats and realleges each and every allegation contained in paragraphs numbered "1" through "22", "25" through "29", and "32" through "36", as if set forth in full here.

56. IMREX, JACOB ARMON and GIDON ARMON, in violation of the Racketeer Influenced and Corrupt Organizations ("RICO") statute (18 U.S.C. §1962(c)), while associated with and/or employed by an enterprise engaged in and/or the activities of which affected interstate and foreign commerce, conducted and participated in the conduct of such enterprise's affairs through a pattern of racketeering activity.

57. Plaintiff has been injured in its business by reason of the aforesaid violation of the RICO statute and may recover treble damages and the cost of this suit, including reasonable attorney's fees, as a result thereof, pursuant to 18 U.S.C. §1964(c).

58. The joint adventure was, at all times herein, an enterprise engaged in, and the activities of which affected, interstate and foreign commerce.

59. IMREX, JACOB ARMON and GIDON ARMON at all times herein, were associated with the joint adventure, in that they substantially participated in the operation of the joint adventure. Said participation consisted of the procurement and shipping of electronic component parts on behalf of the joint adventure and the transmittal of purchase orders, invoices, and credit memoranda relating thereto to SEDIMA, as co-adventurer.

60. IMREX, JACOB ARMON and GIDON ARMON at all times herein, directly and indirectly conducted and participated in the conduct of the joint adventure through a pattern of racketeering in violation of 18 U.S.C. §1962(c).

61. From about June 1979 to about August 1982, pursuant to the agreement of joint adventure, SEDIMA caused orders for electronic component parts in the amount of EIGHT MILLION ($8,000,000) DOLLARS to be placed through IMREX.

62. Pursuant to the joint adventure, IMREX agreed to furnish SEDIMA with copies of the purchase orders sent by IMREX to the vendor or manufacturer of the electronic component parts.

63. Said purchase orders were to be furnished to SEDIMA for the purpose of advising SEDIMA of the terms of purchase of the electronic component parts.

64. Upon information and belief, IMREX, JACOB ARMON and GIDON ARMON, and other employees of IMREX caused purchase orders to be sent to manufacturers and/or vendors of electronic component parts which accurately set forth the terms and conditions of the purchases made on behalf of the joint adventure.

65. On numerous occasions from about June 1979 to about August 1982, in furtherance of the pattern of the racketeering activity and in violation of the RICO statute, IMREX, JACOB ARMON and GIDON ARMON prepared and/or caused to be prepared fraudulent purchase orders which misrepresented to SEDIMA the terms and conditions of purchases of electronic component parts that IMREX made on behalf of the joint adventure.

66. In furtherance of the pattern of the racketeering activity and in violation of the RICO statute, IMREX, JACOB ARMON and GIDON ARMON sent and/or caused to be sent through the United States mails, fraudulent purchase orders to SEDIMA with the intent to and for the sole purpose of defrauding SEDIMA.

67. In furtherance of the pattern of racketeering activity and in violation of the RICO statute, IMREX, JACOB ARMON and GIDON ARMON communicated with SEDIMA on numerous occasions by means of the United States mails and by telephone, thereby misrepresenting the terms and conditions of the purchases that IMREX had made on behalf of the joint adventure.

68. The aforesaid conduct was part of a scheme to defraud plaintiff and constituted separate and numerous violations of the Mail Fraud Act (18 U.S.C. §1341) and the Wire Fraud Act (18 U.S.C. §1343).

69. IMREX, JACOB ARMON and GIDON ARMON caused IMREX employees to calculate the cost of certain electronic component parts, as well as all attendant costs.

70. In furtherance of the pattern of the racketeering activity and in violation of the RICO statute, on numerous occasions from

about June 1979 to about August 1982, IMREX, JACOB ARMON and GIDON ARMON received those calculations from IMREX's employees and on numerous occasions deliberately prepared and caused to be prepared invoices addressed to SEDIMA, as well as credit memoranda addressed to SEDIMA, which misrepresented the actual costs incurred by IMREX and overstated those costs to SEDIMA.

71. In furtherance of the pattern of the racketeering activity and in violation of the RICO statute, IMREX, JACOB ARMON and GIDON ARMON caused the calculations compiled by their employees and their own calculations to inflate the costs of electronic component parts to be destroyed.

72. In furtherance of the pattern of the racketeering activity and in violation of the RICO statute, IMREX, GIDON ARMON and JACOB ARMON caused said fraudulent invoices and credit memoranda to be deposited in the United States mails for delivery to SEDIMA with the intent to and for the sole purpose of defrauding SEDIMA.

73. The aforesaid pattern of racketeering on the part of IMREX, JACOB ARMON and GIDON ARMON was accomplished by placing or causing to be placed in the United States mails, on more than one occasion, from about June 1979 to about August 1982, false and fraudulent purchase orders, invoices and credit memoranda.

74. As a direct and proximate result of the aforesaid conduct of IMREX, JACOB ARMON and GIDON ARMON, plaintiff has been damaged in an amount yet undetermined but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

TENTH COUNT AGAINST IMREX, JACOB ARMON AND GIDON ARMON

75. Plaintiff repeats and realleges each and every allegation contained in paragraphs numbered "1" through "22", "25" through "29", "32" through "36" and "61" through "73" as if set forth in full here.

76. IMREX, JACOB ARMON and GIDON ARMON, in violation of the Racketeer Influenced and Corrupt Organizations ("RICO") statute (18 U.S.C. §1962(c)), while associated with and/or employed by an enterprise engaged in and/or the activities of which affected interstate and foreign commerce, conducted and participated in the conduct of such enterprise's affairs through a pattern of racketeering activity.

77. Plaintiff has been injured in its business by reason of the aforesaid violation of the RICO statute and may recover treble damages and the cost of this suit, including reasonable attorney's fees, as a result thereof, pursuant to 18 U.S.C. §1964(c).

78. IMREX was at all times herein an enterprise engaged in, and the activities of which affected, interstate and foreign commerce.

79. IMREX, JACOB ARMON and GIDON ARMON, at all times herein, were associated employed by and/or associated with IMREX, in that they substantially participated in the operation of IMREX. Said participation consisted of the managment of the daily operations of IMREX and the formation and implementation of the corporate policies of IMREX.

80. IMREX, JACOB ARMON and GIDON ARMON at all times herein, directly and indirectly, conducted and participated

in the conduct of IMREX through a pattern of racketeering in violation of 18 U.S.C. §1962(c).

81. As a direct and proximate result of the aforesaid conduct of IMREX, JACOB ARMON AND GIDON ARMON, plaintiff has been damaged in an amount yet undetermined but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

ELEVENTH COUNT AGAINST JACOB ARMON AND GIDON ARMON

82. Plaintiff repeats and realleges each and every allegation contained in paragraphs numbered "1" through "22", "25" through "29", "32" through "36", "56" through "73" and "76" through "80".

83. JACOB ARMON and GIDON ARMON conspired to violate the provisions of 18 U.S.C. §1962(c).

84. The aforesaid conspiracy constituted a violation of 18 U.S.C. §1962(d).

85. In furtherance of the aforesaid conspiracy, JACOB ARMON and GIDON ARMON prepared or caused to be prepared false and fraudulent purchase orders, invoices and credit memoranda.

86. In furtherance of the aforesaid conspiracy, JACOB ARMON and GIDON ARMON sent, or caused to be sent, through the mails, the false and fraudulent purchase orders, invoices and credit memoranda.

87. As a direct and proximate result of the aforesaid conduct of JACOB ARMON and GIDON ARMON, plaintiff has been damaged in an amount yet undetermined but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS.

WHEREFORE, SEDIMA demands judgment:

(a) On the First Count, against IMREX in a sum as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS in compensatory damages.

(b) On the Second Count, that IMREX account to SEDIMA for all monies and property received and disbursed or assigned by it and of all its acts and doings in connection with said joint adventure; that SEDIMA have judgment against IMREX for all moneys wrongfully obtained by IMREX from SEDIMA in an amount yet undetermined but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS, and for such other and further relief as may be just with the costs of this action.

(c) On the Third Count, against IMREX, JACOB ARMON and GIDON ARMON, jointly and severally, in a sum as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS in compensatory damages, and in the amount of ONE MILLION ($1,000,000) DOLLARS in punitive damages, and the costs and attorney's fees for prosecuting this action.

(d) On the Fourth Count, against IMREX in a sum as yet undetermined, but not less than ONE HUNDRED SEVENTY

FIVE THOUSAND ($175,000) DOLLARS in compensatory damages, and in the amount of ONE MILLION ($1,000,000) DOLLARS in punitive damages, and the costs and attorney's fees for prosecuting this action.

(e) On the Fifth Count, against IMREX in the sum of THIRTY FIVE THOUSAND ($35,000) DOLLARS.

(f) On the Sixth Count, against IMREX in a sum as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS in compensatory damages, and in the amount of ONE MILLION ($1,000,000) DOLLARS in punitive damages, and the costs and attorney's fees for prosecuting this action.

(g) On the Seventh Count, against IMREX in a sum as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS in compensatory damages, and in the amount of ONE MILLION ($1,000,000) DOLLARS in punitive damages, and the costs and attorney's fees for prosecuting this action.

(h) On the Eighth Count, against IMREX in a sum as yet undetermined, but not less than ONE HUNDRED SEVENTY FIVE THOUSAND ($175,000) DOLLARS in compensatory damages, and in the amount of ONE MILLION ($1,000,000) DOLLARS in punitive damages, and the costs and attorney's fees for prosecuting this action.

(i) On the Ninth Count, against IMREX, JACOB ARMON and GIDON ARMON for treble damages and the costs of this suit, including attorneys fees, pursuant to 18 U.S.C. §1964(c).

Amended Complaint

(j) On the Tenth Count, against IMREX, JACOB ARMON and GIDON ARMON for treble damages and the costs of this suit, including attorneys fees, pursuant to 18 U.S.C. §1964(c).

(k) On the Eleventh Count, against JACOB ARMON and GIDON ARMON for treble damages and the costs of this suit including attorneys fees, pursuant to 18 U.S.C. §1964(c).

(l) For such other and further relief as to this Court may seem just and proper.

Dated: New York, New York
May 26, 1983

ORENSTEIN SNITOW &
SUTAK P.C.
Attorneys for Plaintiff
SEDIMA S.P.R.L.

By: _____
Franklyn H. Snitow,
A Member of the Firm

750 Third Avenue
New York, New York 10017
(212) 687-1166

MEMORANDUM AND ORDER OF GLASSER, J. DATED NOVEMBER 14, 1983

[Omitted here but printed in the Appendix to the Petition for Writ of Certiorari found at pp. 60a-63a.]

MEMORANDUM AND ORDER OF GLASSER, J. DATED NOVEMBER 18, 1983

[Omitted here but printed in the Appendix to the Petition for Writ of Certiorari found at p. 64a.]

NOTICE OF APPEAL

UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF NEW YORK

82 Civ. 2161 (ILG)

SEDIMA, S.P.R.L.,

Plaintiff-Appellant,

- against -

IMREX COMPANY, INC., GIDON ARMON and JACOB ARMON,

Defendants-Appellees.

Notice is hereby given that Sedima, s.p.r.l., plaintiff above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the Orders of District Judge I. Leo Glasser of the Eastern District of New York filed November 16, 1983 and amended November 18, 1983 dismissing the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Section 1962, *et seq.* ("RICO") claims in the amended complaint.

Dated: November 23, 1983.

ORENSTEIN SNITOW &
PAULEY, P.C.
Attorneys for Plaintiff,
Sedima, s.p.r.l.,

Notice of Appeal

By: William H. Pauley, III
A Member of the Firm

750 Third Avenue
New York, New York 10017
(212) 687-1166

TO:

SHAW, GOLDMAN, LICITRA,
LEVINE & WEINBERG, P.C.
Attorneys for Defendants
1010 Franklin Avenue
Garden City, New York 11530
(516) 742-0610

FINAL JUDGMENT OF DISMISSAL DATED DECEMBER 1, 1983

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CV 82-2161

SEDIMA S.P.R.L.,

Plaintiff,

-against-

IMREX COMPANY, INC., GIDON ARMON, and JACK ARMON,

Defendants.

A memorandum and order of Honorable I. Leo Glasser, United States District Judge, having been filed on November 22, 1983, directing,pursuant to Rule 54(b), Fed.R.Civ.P., there being no just reason to delay the appeal from the order dated November 14, 1983 dismissing plaintiff's RICO claims,that the dismissal be entered as a final judgment, it is

ORDERED and ADJUDGED that pursuant to Rule 54(b), Fed.R.Civ.P., there being no just reason to delay the appeal from the order dated November 14, 1983 dismissing plaintiff's RICO claims, the dismissal is entered as a final judgment.

s/ Robert C. Heinemann
Clerk of Court

Dated: Brooklyn, New York
December 1, 1983

MANDATE OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

83-7965

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the twenty-fifth day of July one thousand nine hundred and eighty-four.

Present:

HON. J. EDWARD LUMBARD

HON. JAMES L. OAKES

HON. RICHARD J. CARDAMONE

Circuit Judges,

SEDIMA, S.P.R.L.,

Appellant,

-v.-

IMREX COMPANY, INC., GIDON ARMON and JACOB ARMON,

Appellees.

Appeal from the United States District Court for the Eastern District of New York.

Mandate

This cause came on to be heard on the transcript of record from the United States District Court for the Eastern District of New York, and was argued by counsel.

ON CONSIDERATION WHEREOF, It is now hereby ordered, adjudged, and decreed that the judgment of said District Court be and it hereby is affirmed in accordance with the opinion of this court with costs to be taxed against the appellant.

Elaine B. Goldsmith,
Clerk

s/ Edward J. Guardaro
Deputy Clerk

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THE MANDATE, CONSISTING OF THE ITEMS BELOW, HAS BEEN RECEIVED.
/_____/ OPINION /_____/ ORDER
/_____/ STATEMENT OF COSTS
REC'D. BY Williams DATE 8/21/84

OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[Omitted here but printed in the Appendix to the Petition for Writ of Certiorari found at pp. 1a-59a.]